

# **WISCONSIN LEGISLATIVE COUNCIL STAFF**

## ***RULES CLEARINGHOUSE***

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## **CLEARINGHOUSE RULE 95-221**

### **Comments**

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In s. NR 28.03 (5) (a), the comma following “certificate of origin” in the second line should be shown as stricken through. Also, in the underscored material added following the first sentence, “as relates to their purchase and sales records” is unnecessary. It is sufficient to require licensed dealers to complete all information required by the department on the certificate of origin.

b. In the last sentence of s. NR 28.03 (5) (a), “or” should be replaced by “of” following “certificate.”

c. In s. NR 28.03 (5) (b), “time” in the third sentence should be replaced by “date.”

d. In s. NR 28.04 (1), the first sentence is plural and the second sentence is singular. It is suggested that either the first or the second sentence be revised to make the provision internally consistent. [See, also, s. NR 28.03 (5) (c).]

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

Section NR 28.03 (4) (c) 3m. and (e) and (5) (c) refer to various forms and records. If these provisions require new or revised forms, the provisions of s. 227.14 (3), Stats., should be met. [See, also, s. 1.09 (2), Manual.]

**5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. Section NR 28.03 (2) (b) 1m. refers to “uncertified wild ginseng” that must be returned to the state for certification. Does the phrase “uncertified wild ginseng” refer to wild ginseng that is not accompanied by a certificate of origin? If so, the provision should be rewritten to so state. Also, the provision presumably refers to ginseng harvested in Wisconsin that is sold to a licensed nonresident dealer that must be returned to Wisconsin for a certificate of origin. However, if the provision is meant to apply to wild ginseng that originates in states other than Wisconsin, the rule should be clarified appropriately. Also, if the provision applies to wild ginseng originating in states other than Wisconsin, what statutory authority exists for applying this provision to nonresident dealers?

b. In s. NR 28.03 (4) (e), is it clear what the word “export” means? In this context, does the word describe the distribution of wild ginseng to a foreign country or distribution of wild ginseng to any destination, including other states?

c. The rule inconsistently refers to regulated parties as “dealers” or “licensed dealers.” The inconsistent reference should be reviewed. Does the use of the phrase “licensed dealer” indicate that a regulation will not apply to someone who is not licensed, but who nevertheless meets the definition of “dealer” in s. 29.547 (1) (a), Stats., as affected by 1995 Wisconsin Act 27?

d. In s. NR 28.04 (1), the slash following the word “flowering” should be replaced by the word “or.”